



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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December 3, 1999

CERTIFIED RETURN RECEIPT
P 074 976 791

Dale Snyder
Absolute Mining and Minerals, Inc.
1350 East 145 South
Lehi, Utah 84043

Re: Informal Hearing on Notice Cessation of Operation, Absolute Mining and Minerals, Inc.,
Dolores River Placer Operation, S/019/035, Grand County, Utah

Dear Mr. Snyder:

Background

On November 5, 1999, an informal hearing was held at the request of the operator, Absolute Mining and Minerals, Incorporated (AMMI) to appeal the Division's October 6, 1999, order to AMMI, "the operator of the Dolores River Placer Operations, to immediately cease all operations, post an interim reclamation surety and submit a Large Mining Notice of Intention."

The basis for the Division's order was a written finding "that the Dolores River Placer Operation, file S/019/035, is in non-compliance with sections of the Utah Mined Land Reclamation Act, 40-8-1 et seq (Act) and the Minerals Reclamation Program Rules (Rules), sections R647-1 through R647-5. This operation is permitted with the Bureau of Land Management (BLM) as a Plan of Operations (POO) under file UTU-72488." The Division believed that on the basis of GPS field mapping, AMMI had exceeded the 5-acre threshold allowed under Utah's rules for Small Mining Operations, and the 4.1 acre disturbance stipulated under BLM's file UTU-72488.

Informal Hearing

Present at the informal hearing were Wayne Hedberg, Doug Jensen, Tony Gallegos and Mary Ann Wright, representing the Division's Minerals Regulatory Program, and Griffith Lyn Kimball and Dale Snyder representing AMMI. Lowell Braxton served as the Hearing Officer.

After introductory remarks, Wayne Hedberg, Permit Supervisor, described the setting for the AMMI Small Mining Operation (SMO), a placer mine located in a potential Wild and Scenic River corridor, and stated the Division's contention that mining related disturbances had exceeded five acres. Tony Gallegos, Senior Reclamation Specialist, provided a historical overview of this operation. Supporting maps and photographs, supplemented with a chronology of permitting actions were used to describe the location and nature of disturbances which gave the Division reason to believe mining related disturbances had exceeded five acres. Mr. Gallegos described a GPS survey of the site in May, 1999, technical problems with the GPS unit notwithstanding, which documented site disturbances in excess of five acres.

Dale Snyder of AMMI presented a position suggesting much of the disturbance, documented by the Division's May, 1999, GPS map was not in fact mining-related disturbance but was more accurately cleanup of abandoned cars and other refuse required in the BLM's letter to AMMI (7-27-94).

Mr. Gallegos suggested that berms located on the site defined the boundaries of the area affected by mining activities, while Mr. Snyder stated that the entire area within those berms had not been disturbed by mining activities.

Division of Oil, Gas and Mining representatives and those present representing AMMI agreed that the proposed disturbed area boundary under SMO S/019/035 was not adequately depicted in maps supplied with the notice. The disturbed area boundary is not located in the field by stakes, pins or other recoverable boundary markers. The specific location of the 4.1 acres bonded by BLM under its Plan of Operations UTU-72448 is not accurately represented in files available to the Utah Division of Oil, Gas and Mining.

Findings of Fact

The Hearing Officer finds that inadequate maps and lack of locatable disturbed area boundaries in the field hinders a finding of compliance for SMO S/019/035 under Title 40-8, UCA and the regulations that spring from this chapter, specifically: R647-3-101 (5) Filing Requirements, requiring:

"Filing of the complete notice of intention shall enable the operator to conduct small mining operations. The operator is responsible for conducting mining and reclamation activities in compliance with the requirements of the notice of intention, the Act, and these Rules", and

R647-3-105, Project Location and Maps, requiring:

"A topographic base map showing the location of the proposed small mining operation must be submitted with the notice of intention. A USGS 7.5 minute series map is preferred. The areas to be disturbed should be plotted on the map in sufficient detail so that they can be located on the ground. It is recommended that the operator also plot and label any previously disturbed areas in the immediate vicinity of the proposed small mining operation for which the operator is not responsible".

Title 40-8-5 (2),UCA reads: **"Where federal or local laws or regulations require operators to comply with mined land reclamation procedures separate from those provided for in this chapter, the board and division will make every effort to have its rules and procedures accepted by the other governing bodies as complying with their respective requirements. The objective in coordination is to minimize the need for operators and prospective operators to undertake duplicating, overlapping, or conflicting compliance procedures"** (Emphasis added).

The Division of Oil, Gas and Mining's June 21, 1999, order to AMMI to post-interim reclamation surety for mining related disturbances was not intended to pose a duplicative burden on AMMI. Rather, the order recognizes that bonded disturbances required by the BLM are not described adequately enough in the Plan of Operations UTU-72488 (and in SMO S/019/035) to differentiate areas that may be disturbed by active mining operations from those stipulated by BLM when that agency required posting of an \$8,200 reclamation bond for 4.1 acres of disturbances located in Township 23 South, Range 24 East (SLM), Section 11, Lots 5 and 7.

Order

By no later than January 10, 2000, AMMI representatives and personnel from the Division of Oil, Gas and Mining's Minerals Regulatory Program (the Utah Minerals Program) shall meet at the mine site and define a disturbed area and proposed disturbed area that comports with the requirements of the Utah Program.

If areas that have been disturbed or will be disturbed by "Mining Operations" as defined by the Utah Minerals Program exceed 5 acres, AMMI shall within 45 days of written notice by the Utah Minerals Program post bond in the amount determined by the Division. If areas that have been disturbed or will be disturbed by "Mining Operations" exceed five acres, and include all or a portion of the 4.1 acres bonded by BLM, the Utah Minerals Program will recognize this and credit AMMI's bonding obligation under the Utah Minerals Program, accordingly.

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During or no later than ten (10) working days following the site visit contemplated in this order, the Utah Minerals Program shall provide AMMI with written permit deficiencies and a schedule to remedy these deficiencies.

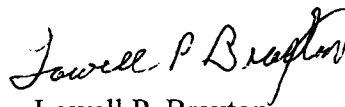
The Notice of Agency Action issued to AMMI October 6, 1999, by the Utah program is amended to incorporate the terms of this order.

This Order is not intended to bind the BLM, or modify any terms of AMMI's obligations to the BLM, but is designed to bring AMMI into compliance with the requirements of the Utah Minerals Regulatory Program.

Appeal Provisions

AMMI may appeal this Order by filing a written appeal to the Board of Oil, Gas and Mining within ten (10) days of receipt of this Order. The appeal shall be in the form of a Request for Agency Action for a formal hearing before the Board of Oil, Gas and Mining in conformance with rules of practice and procedure before the Board, and shall state the grounds for appeal and the relief requested.

Sincerely


Lowell P. Braxton
Hearing Officer

jb
cc: M. Wyatt, BLM, Moab
M. Wright, DOGM
W. Hedberg, DOGM
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